

**TOWN OF POLK
BOARD OF ZONING APPEALS MINUTES
September 25, 2008
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I. Call Meeting to Order - 6:30 p.m. 3220 Tillie Lake Rd., Jackson.

The meeting of the Board of Zoning Appeals was called to order by Chairman Art Melius at 6:30 p.m. at 3220 Tillie Lake Rd.

A. Official Meeting Notification -

Notice of the Meeting was posted at the Town Hall, Highway View School and Cedar Lake Hills bulletin boards as well as faxed to the West Bend Daily News, Hartford Times Press, WBKV, WTKM, Milwaukee Journal Sentinel, and posted on the Town of Polk website. All interested parties were also notified.

B. Roll Call - Board members present: Chairman Art Melius, Karen Reiter, Mary Franz, Patrick Fehring, Rodney Bartlow, and Judy Stephenson, Zoning Secretary.

List of guests is attached. (See page)

C. Approval of Agenda - A motion was made by Mary Franz to approve the Agenda for September 25, 2008, seconded by Rodney Bartlow. Motion carried unanimously by voice vote.

D. Approval of Minutes - August 28, 2008- A motion was made by Mary Franz and seconded by Patrick Fehring to approve the minutes of August 28, 2008. Motion carried unanimously.

II. Public Hearing - Randall & Jennifer Hennes, 3220 Tillie Lake Road, Jackson. Judy Stephenson, Zoning Secretary, read the Notice of Public Hearing for Randall & Jennifer Hennes.

A. Variance request to Section 6.04 (2) of the Zoning Ordinance of Title X of the Municipal Code of the Town of Polk to allow a variance of 39 feet to the front yard setback and 6 feet to the side yard setback to construct a 30 foot by 24 foot accessory building. Tax Key #T9-0531, Section 13, Zoned R-1 Residential, .33 acres.

Randall Hennes stated that he proposes to remove the existing 26.5' by 22.3' garage and replace it with a 30' by 24' garage in approximately the same location, 1.2 ft. farther back from the road but .7 ft. closer to the side property line and on a new slab. He further stated that the proposed garage could not be constructed farther from the side yard lot line because it would be too close to or on top of the septic area. Mr. Hennes stated that the new garage would be set back 11 ft. from the road and 4 ft. from the side lot line. Karen Reiter stated that because this property is considered to be an existing substandard lot, the front yard setback is 50 ft. from the right-of-way and 10 ft. from the side lot line, per the Town Zoning Ordinance.

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Art Melius asked how close the garage would be to the neighboring building. Jennifer Hennes stated that the distance between buildings is 18.6 ft. wall to wall. Discussion was held. Randall Hennes stated that he had gotten a message from the Building Inspector that there was a 15 ft. height limit on accessory buildings but that his garage plan was for a height of 19 ft. to allow for upper level storage. Judy Stephenson stated that the height of the garage was not part of the variance request and would have to be taken up with the Building Inspector. Karen Reiter stated that Section 3.05 (3) of the zoning ordinance showed that height limit to be 15 ft. in the R-1 Residential district but a maximum height of 20 ft. could be approved upon recommendation of the Building Inspector if the additional height is necessary in order to maintain consistency and integrity of the architecture, including roof pitch, between the principal structure and the proposed accessory structure.

Judy Stephenson asked if the building on the far side of the yard was on Randall and Jennifer Hennes's neighbors property. Mr. Hennes stated that the building was his own. Judy Stephenson stated that the survey submitted did not show the building nor was it mentioned anywhere in the variance application or supporting documents. She further stated that there was a limit of 720 sq. ft. for accessory structures on the Hennes's substandard lot and the size of the garage requested on the variance was exactly 720 sq. ft. Jennifer Hennes stated that they did not think that a moveable shed would count as an accessory structure and toward the square footage limit and so did not mention it and no building permit was obtained for it. Discussion was held.

Robert Reith - 3219 Tillie Lake Rd. - Stated that he supported the variance request and had no objections to it.

Patrick Fehring stated that the Board could approve the variance for setbacks as requested but a variance to exceed square footage limit for accessory building would have to be filed for separately and addressed at a future meeting. He further stated that the Hennes could reduce the size of the garage by the amount of the square footage of the shed or remove the shed and have a 720 square foot garage. Mr. Hennes stated that since the shed contains tools needed to build the garage, he would want to keep the shed until the garage was finished but would then remove the shed.

Karen Reiter stated that she had concerns about snow plowing with the garage being so close to the road. Jennifer Hennes stated that there has never been a problem with snow plowing. Patrick Fehring stated that the new garage would be 1.2 ft. farther from the road than the present garage. Karen Reiter stated that the house itself is almost on the road.

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Chairman Arthur Melius closed the Public Hearing and the Board considered the findings.

Mary Franz read the findings:

1. Preservation of intent - the use is permitted in the R-1 Residential district.
2. Exceptional circumstances - the substandard sized lot, the neighboring houses setbacks which are also close to road and the septic system that runs down the middle of the property.
3. Economic Hardship and Self-Imposed Hardship Not Grounds for Variance - There is no self-imposed or economic hardship.
4. Preservation of Property Rights - It would be consistent with the right to have a garage and with other variances granted to other such properties in the neighborhood.
5. Absence of Detriment - The building is being put back where current one is now and is not more of a detriment to the property or neighborhood.

Decision - The Board agreed to grant the variance.

Motion to adjourn made by Mary Franz and seconded by Patrick Fehring to approve the variance as stated with the total square footage of accessory buildings does not exceed 720 sq. ft. for the property; the property owner may use the entire 720 sq. ft. in the front building or reduce the size of the garage to accommodate the square footage of the shed as long as the total square footage does not exceed 720 sq. ft.. All voted in favor and the motion passed.

IV. Adjournment

Motion to adjourn made by Mary Franz and seconded by Patrick Fehring. All voted in favor and meeting was adjourned at 7:00 p.m.

Respectfully Submitted,

Judy Stephenson
Zoning Secretary

